

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DENNIS CLARK ,)	
)	
Plaintiff,)	
)	
vs.)	No. 09-cv-528-JPG-PMF
)	
SHADE TREE SERVICE CO.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Before the Court is Plaintiff's Response to Rule to Show Cause (Doc. 4) wherein Plaintiff requests that the Court grant Plaintiff time, up to and including April 30, 2010, in which to effectuate service upon Defendant.

Federal Rule of Civil Procedure 4(m) governs the time in which process must be served. That rule provides, in pertinent part:

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

Fed. R. Civ. P. 4(m). This rule requires a court to grant an extension if the plaintiff shows good cause, but leaves it to the court's discretion whether to grant an extension if the plaintiff shows excusable neglect. *Coleman v. Milwaukee Bd. of Sch. Directors*, 290 F.3d 932, 934 (7th Cir. 2002); *Panaras v. Liquid Carbonic Indus. Corp.*, 94 F.3d 338, 340-41 (7th Cir. 1996).

Finding good cause shown, the Court hereby **ORDERS** that Plaintiff shall have up to and including April 30, 2010, to effect service on Defendant. The order to show cause (Doc. 3) is **DISCHARGED**.

SO ORDERED.

April 15, 2010
Date

s/ J. Phil Gilbert
J. PHIL GILBERT
U.S. DISTRICT COURT JUDGE